

REMARKS

Claims 34-61 are pending. Claims 52-61 are new. In an Official Action dated November 21, 2007, claims 34-51 were rejected under 35 U.S.C. § 103. The rejections are respectfully traversed.

Interview Summary

Applicants thank the Examiner for the courtesy of a telephonic interview on January 9, 2008. At the interview, the undersigned and Examiner discussed the claims in view of the references without reaching agreement.

Rejections under 35 U.S.C. § 103

Claims 34, 38 and 39 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton et al. (U.S. Pat. 6,473,425) in view of Woundy (U.S. Pat. 6,009,103), Rosier et al. (U.S. Pub. 2002/0015408) and Tsang et al. (U.S. Pat. 7,203,954).

Claim 35 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, and Tsang, and further in view of Grob et al. (U.S. Pat. 6,850,769).

Claim 36 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, and Tsang, and further in view of Cheng et al. (U.S. Pat. 7,050,397).

Claim 37 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, and Tsang, and further in view of Reaves (U.S. Pat. 5,909,430).

Claims 40, 42, 45, 46, 48 and 51 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, Grob, and Brownlie (U.S. Pat. 5,136,576).

Claims 41, 44, 47 and 50 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, Grob, Brownlie, and further in view of Reaves.

Claims 43 and 49 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellaton in view of Woundy, Rosier, Grob, Brownlie, and further in view of Cheng.

Independent claims 34, 40, and 46 are amended to expedite prosecution by clarifying that the offer packet indicates a number of packets and the stop packet is sent “upon receipt of all packets indicated in said offer packet.”

The Official Action alleges that the stop packet in Applicants’ claims was disclosed in Woundy, col. 8, lines 61-62. See Official Action, bottom of page 4. This section of Woundy provides, “Further, a user can also send a Release message to terminate an IP address reservation prematurely.”

It will be appreciated that sending a stop packet “upon receipt of all packets indicated in said offer packet” is not equivalent to sending a “Release message to terminate an IP address reservation prematurely.” First, the Woundy’s release message terminates an “IP address reservation” and does not indicate receipt of packets. Second, Woundy’s release message terminates the IP address reservation “*prematurely*,” while the independent claims send a stop packet “upon receipt of all packets,” which is not for the purpose of premature termination.

The rejections of claims 34-39 are also respectfully traversed for at least the following reasons. First, the references do not teach all the limitations of Applicants’ independent claim 34. Second, the references do not establish adequate motivation to combine the references applied in the Official Action.

At least one limitation of claim 34 not taught by the references is, “*discarding by said electronic device at least one data packet having a sequence identifier that is previous to an expected sequence identifier.*”

The Official Action allegedly finds this limitation in Bellaton col. 6, lines 39-43, and Bellaton col. 9, lines 42-56, as stated on page 3 of the Official Action. However, Applicants respectfully point out that Bellaton’s queue controller is located in Bellaton’s dispatching mechanism. See, e.g. Bellaton col. 5, line 55-65. In contrast, “*said electronic device*” in the above limitation of claim 34 is a device that *receives* data, as demonstrated for example by the preamble of the claim, which recites, “*a method for an electronic device to retrieve data,*” or for example by the limitation that reads “*receiving by said electronic device a first plurality of sequentially ordered data packets from said selected server.*”

Therefore, Bellaton does not disclose “discarding by said electronic device at least one data packet having a sequence identifier that is previous to an expected sequence identifier,” because the Bellaton’s device that discards a packet is involved in transmission of such packets, not receipt.

Applicants also find no suggestion or motivation to combine the references as applied in the Official Action. MPEP 706.02(j) provides:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

The Official Action applies a *minimum* of four separate references to reject claims 34-39. Applicants note that this is a relatively high number of references. While the Examiner is not constrained in the number of references he can apply, it will be appreciated that the likelihood of producing a specific combination decreases as the number of references needed to teach the various elements increases.

Second, the teachings of Woundy do not cause the operation of the mechanism of Belleton to be more “organized and efficient” as stated in the Official Action, page 5. If anything, adding the operations of Woundy to those of Belleton would require extra operations by Belleton, resulting in less organization and efficiency. Thus Applicants do not find any motivation to combine Belleton and Woundy, and furthermore disagree with the alleged motivation set forth in the Official Action, and finally do not find any support in the references for the motivation set forth in the Official Action.

For at least the above reasons, withdrawal of the outstanding rejections is respectfully requested.

DOCKET NO.: MSFT-2770/ 304195.01
Application No.: 10/729, 708
Office Action Dated: November 21, 2007

**PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116**

New Claims 52-61

Applicants refer the Examiner to paragraphs 0064 and 0065, *inter alia*, for support for new claims 52-61. Paragraphs 0064 and 0065 teach an embodiment in which the server sends 8 packets at a time, and the device sends acknowledgements every 4 packets. Other fractions are also possible as will be appreciated.

Date: January 22, 2008

/Nathaniel Gilder/
Nathaniel Gilder
Registration No. 53,233

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439